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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 CAPE HAZE INVESTMENTS, LTD., *et al.*,

11 Plaintiffs,

12 v.

13 RICHARD D. EILERS,

14 Defendant.

Case No. C08-809RSL

ORDER VACATING JUDGMENT  
AND VACATING IN PART ORDER  
GRANTING MOTION FOR  
SUMMARY JUDGMENT;  
REOPENING CASE

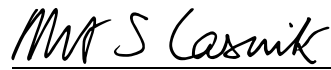
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17 In light of the January 8, 2010 opinion from the Ninth Circuit Court of Appeals and its  
18 February 2, 2010 Mandate, the Court's February 23, 2009 judgment in this matter is  
19 VACATED. The Court also vacates in part its prior order granting plaintiffs' motion for  
20 summary judgment. Pursuant to the order of the Ninth Circuit, genuine issues of material fact  
21 remain regarding (1) whether the lenders colluded with Eilers' business partner, Chris Allender;  
22 (2) whether the lenders were entitled to repossess assets not secured by the parties' original  
23 agreements of October 1999; and (3) if the lenders did collude with Allender or if they did  
24 impermissibly repossess certain assets, whether such conduct materially increased Eilers' risk as  
25 guarantor.

26 The Clerk of the Court is directed to reopen this case and to issue an amended case

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28 ORDER VACATING JUDGMENT AND VACATING IN PART ORDER  
GRANTING MOTION FOR SUMMARY JUDGMENT; REOPENING CASE - 1

1 schedule with a new trial date.

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3 DATED this 9th day of February, 2010.

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7 Robert S. Lasnik  
8 United States District Judge  
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